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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,395	03/22/2006	Robert Malek	0072US/PCT	5423
44064 7590 10/07/2008 THERMO FINNIGAN LLC 355 RIVER OAKS PARKWAY SAN JOSE, CA 95134				
EXAMINER				
VO, HEN XUAN				
ART UNIT		PAPER NUMBER		
2863				
MAIL DATE		DELIVERY MODE		
10/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,395

Applicant(s)

MALEK ET AL.

Examiner

HIEN X. VO

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 19 and 28 is/are rejected.
- 7) ☒ Claim(s) 7, 9-18 and 20-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8, 19, 28 rejected under 35 U.S.C. 103(a) as being unpatentable over Gedcke et al. (U.S. Patent No. 5,995,989) further in view of Biagiotti (US Patent No. 6,502,045).
3. With respect to claims 1, 19, 28, Gedcke et al. disclose a method and apparatus for compression and filtering of data associated with spectrometry that includes reading data corresponding to a spectrum (see e.g. col. 8, lines 56-59); carrying out a statistical analysis of noise within the read data to obtain at least one statistical moment or parameter related to the distribution of the noise (see e.g. col. 10, lines 54-58); identifying peaks in the spectrum by comparison of the data points in the spectrum to the said threshold value (see e.g. abstract); except for teaching determining a threshold value from the at least one, obtained statistical moment or parameters, storing information related to the identified peaks along with the at least one obtained statistical moment or parameters.
4. Biagiotti discloses a unified analog/digital waveform software analysis tool with video and audio signal analysis methods including a virtual spectrum analyzer (see e.g. col.2, lines 14-17), determining a threshold value from the at least one, obtained

statistical moment or parameters (see e.g. Figs.3, 23-24, col. 8, lines 3-14); storing information related to the identified peaks along with the at least one obtained statistical moment or parameters (see e.g. col. 9, lines 34-46, col. 12, lines 28-50, col. 14, lines 20-25). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the virtual spectrum analyzer as taught by Biagiotti in a method and apparatus for compression and filtering of data associated with spectrometry of Gedcke et al. for the identification and/or separation of composite signal that can lead to manipulate the test signal and storing the manipulated test signal.

5. With respect to claims 2-6, 8, Gedcke et al. disclose the invention as claimed including the step of storing the information related to the identified peak comprises storing the data points of the peaks and discarding the noise data (see e.g. col. 10, lines 62-64); generating a mass spectrum subsequent to the step of storage (see e.g. col. 1, lines 11-17); comprising displaying the mass spectrum (see e.g. Fig. 6); the step of displaying comprises displaying only the identified peaks without also displaying the noise in the read data (see e.g. col. 7, lines 8-16); at least one statistical moment or parameter is selected from the list comprising an expectation value, a standard deviation, and a variance (see e.g. col. 4, lines 61-67);

Claims 7, 9-18, 20-25 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims

6. Applicant's arguments with respect to claims 1-25, 28 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIEN X. VO whose telephone number is (571)272-2282. The examiner can normally be reached on M-F (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hien Vo
09/29/08

/Tung S. Lau/
Primary Examiner, Art Unit 2863
October 1, 2008